

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Javit A. Drake et al.	Art Unit	: 1745
Serial No.	: 10/664,822	Examiner	: Robert W. Hodge
Filed	: September 16, 2003	Conf. No.	: 3431
Title	: ENHANCED FUEL DELIVERY FOR DIRECT METHANOL FUEL CELLS		

Mail Stop Appeal Brief - Patents

Commissioner for Patents

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SUMMARY OF EXAMINER INTERVIEW.

Applicant thanks Examiner Robert Hodge for the telephonic interview conducted on 06/11/2009. Applicant was represented by Mr. Denis Maloney, the undersigned, and Mr. Indranil Sarkar working under the direction of the undersigned.

Applicant's representatives discussed the rejections of claims 11-23 under the first and second paragraphs of 35 U.S.C. 112. The Examiner alleged that essential parts of Applicant's invention were missing from the claims based on portions of the specification quoted in the Summary of Claimed Subject Matter section in the Appeal Brief filed on April 13, 2009, and therefore the claims represented "a non functioning invention."

Applicant's representatives pointed that the Summary of Claimed Subject Matter section is provided for the convenience of the Board to enable the Board to quickly find where the claimed subject matter is supported in the specification and the examiner is not permitted to construe the invention based that section. Applicant's representatives also contended that the claim language adequately recited the features needed to distinguish the claimed invention over the cited art and that even the alternative interpretations of the claims used by the examiner were operative.

Applicant's representatives asked the Examiner if claims 11-23 would be allowable over the prior art if amended to overcome the 112 rejections and pointed out that claims 11-23 have not been rejected over any prior art.

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The Examiner stated that he has not been able to perform a search since the claims are allegedly not enabled by the disclosure. Applicants duly noted that these claims have been previously the subject of prior search(es) by the examiner and were previously rejected in view of prior art. Applicant asked the examiner to explain why he was not able to now search these claims that have been pending for six years. The examiner did not offer an explanation that Applicant's representative could understand, and as a result this portion of the interview was cut short. Applicant's representative did explain that the Examiner's position that a search cannot be performed now, after six years of pendency, seemed arbitrary and capricious.

Applicant's representatives further discussed the rejections of claims 24-30, 32 and 33 under 35 U.S.C. 102(b), or in the alternative, under 35 U.S.C. 103(a) over the Kaschemekat reference. Applicant's representative pointed out that Kaschemekat does not teach or even suggest a methanol impermeable membrane. The Examiner however maintained his contentions as set forward in the office action dated 06/04/2009.

No agreement was reached.

Respectfully submitted,

Date: June 29, 2009

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